

THE EMPLOYMENT PERMIT SYSTEM OF KOREA:
DEVELOPMENT IMPLICATIONS AND POSSIBLE IMPROVEMENTS

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ABSTRACT

The Employment Permit System is Korea's government-led scheme to manage low-skilled labor migration. The labor scheme aims to support all concerning parties on both sides of sending and receiving labor by securing transparency in the entire process of the foreign labor employment, relieving labor shortages in a number of labor-intensive industries in Korea, and protecting the low-skilled migrants. Given the various positive development impacts and conflicting reputations in the international society at the same time, the labor migration scheme is suggested to be improved in its current matching mechanism for increasing sustainability which serves stable labor relations, complements institutional limitations of the labor management, and consequently affects the migrant workers' living in Korea as a whole.

BIOGRAPHICAL SKETCH

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1. Introduction

In the globalizing era, migration is an on-going phenomenon. The majority of the migrants are crossing borders to find job opportunities. Korea used to be among the countries that send citizens for employment abroad. Witnessing transformation of the economic structure along with the rapid economic growth during the 1980s and 1990s, Korea changed to a host country for labor migrants. As industry and technology continue to develop, the Korean economy has had to come up with measures for some labor-intensive sectors, such as manufacturing and construction, suffering chronic labor shortages (Park, 2008). As these sectors often require lower skills and pay less, employers struggled to find workers domestically (ILO, 2010). The Korean government, therefore, tried a series of programs to deal with labor migration into its economy to fill the labor gap and introduced the Employment Permit System which is the current scheme to manage low-skilled labor migration.

The Employment Permit System is complex in terms of its reputation in the international society and its structure per se. The labor-management scheme won the United Nations Public Service Award in 2011 (UN, 2011). It was remarkable for the Korean government to be recognized by the global community for its endeavors to achieve transparency in labor migration. On the other hand, critics argue that the Employment Permit System approaches foreign workers as temporary thus disposable (AI, 2012). The whole process of the Employment Permit System is controlled by the Korean government in collaboration with each sending country to avoid any irregularities and exploitation which can be caused by private agencies' involvement. However, the foreign workers' rights in some cases would be limited rather than supported due to the Korean authorities' tight control.

The Employment Permit System is important for all concerning parties, as the scheme has been geared to meet bilateral demand and supply relationships of Korea with each labor-sending country. This paper, therefore, finds out positive development impacts of the Employment Permit System after analyzing complex specificities of the labor migration scheme. Then reputations and issues of the Employment Permit System are funneled through triangular relations between employment management, economic development, and immigration control within the Korean authorities' policy sphere to suggest a possible improvement of the labor migration scheme. Finally, the current matching mechanism for employment of the Employment Permit System is suggested to be improved for sustainability. For the purpose of the arguments, this paper focuses on low-skilled migrant workers under the Employment Permit System but excludes those who are Korean ethnics among the migrants as the latter group enjoys preferential terms and conditions working in Korea than those with different ethnic backgrounds.

2. Korea's Management of Low-Skilled Labor Migration

2.1. Introduction of a Government-Led Scheme for Low-Skilled Labor Migration

The Korean government has been implementing the Employment Permit System to manage temporary migration of low-skilled foreign labor since 2004. The scheme is designed to be administered exclusively by the Korean authorities. The government-driven system reflects Korea's past experience. Prior to the Employment Permit System, the Industrial Trainee System had been operated in collaboration with private sectors to manage foreign workforces in Korea. Since the previous system recognized the migrants as trainee not as worker, it was hard for the foreign trainees to claim their rights due to their complicated status. Employers concerned about unstable relationships with

their trainees who in some cases abruptly disappeared, causing difficulties in business. Corruptions and irregularities were also among the issues to be tackled. Placement agencies tried to take advantage of the process of sending and receiving labor. Some trainees went undocumented to make up what they had to pay private agencies for working in Korea. The Korean government, therefore, came up with the latest system which includes institutional improvements from the preceding one (HRDS, n.a.a).

Operation of the Employment Permit System is based on domestic legislation including ‘Act on the Employment, etc. of Foreign Workers’ and bilateral memorandum of understandings between the Ministry of Employment and Labor of Korea and each of labor-sending countries. At the end of every year, the Committee for Policy on Foreign Human Resources under the Prime Minister’s office of Korea renews and releases introduction plans for the next year in accordance with the Act. Among the most important tasks of the Committee is to decide the list of sending countries. Currently, sixteen countries, including Vietnam, the Philippines, Thailand, Mongolia, Indonesia, Sri Lanka, Uzbekistan, Pakistan, Cambodia, China, Nepal, Myanmar, Kyrgyzstan, Bangladesh, East Timor and Laos, have their people working in Korea under the Employment Permit System. The Committee also determines eligible industrial sectors in Korea for the Employment Permit System. The decisions are made comprehensively based on various factors from both sending and receiving ends, such as preferences of potential employers, the number of illegal immigrants from a candidate sending country, and the candidate country’s diplomatic and economic ties with Korea (Yoo et al., 2011).

The Korean authorities’ hands-on roles cover administration details as well. The government manages schedules of the Test of Proficiency in Korean (TOPIK) which all foreign candidates of the Employment Permit System must sit for and achieve a certain score or above for application; business criteria which should be satisfied when Korean employers apply for permission to hire foreign workers; and quotas for Korea’s

domestic industrial sectors to introduce foreign labor and for countries of origin to send their people to Korea. The Korean government provides job roster to sending countries, who create the list of successful candidates. Potential employers select workers among the candidates on the list. Prior to the process of visa application and issuance, employers and employees should sign the contract. The whole cycle of the Employment Permit System is driven by the Korean government where the authorities partake in a turn-taking manner regarding each of their issues, such as employment management, economic development, and immigration control.

2.2. Complex Specificities of the Employment Permit System

The fundamental principle that penetrates the Employment Permit System is complete planning and exercising by the Korean government. The Korean government devices the labor scheme to ‘contribute to smooth supply of and demand for human resources and the balanced development of the national economy through the systematic introduction and management of foreign workers’ as it is highlighted in ‘Act on the Employment, etc. of Foreign Workers.’ Adding to the balanced economic development, immigration control is also included in the concerns of the Korean authorities, given the scope of the Act which states ‘foreign workers shall be governed by the Immigration Act’ as well. Introduction of low-skilled foreign labor in Korea is in the triangular relations between employment management, economic development, and immigration control.

The Korean government’s immediate aim of introducing low-skilled foreign labor is to relieve labor shortages in certain domestic industries. However, the relief measures are subject to conditions in regard to the triangular relationship. The Employment Permit System limits the foreign workers’ sojourn up to four years and ten months in principle

and keeps the foreign workforces temporary and ineligible to claim Korean citizenship. The temporary migration works for the Korean authorities to flexibly adjust the labor management according to changing economic situations but to avoid socio-economic costs accompanied by long-term immigration. Additionally, the migrant workers may change their workplaces no more than three times during their entire sojourn in Korea. By definition, the Employment Permit System is to support Korean businesses to hire foreign labor, thus the scheme seeks to provide employment stability to the employers and minimize economic disruption possibly aroused by free movement of foreign labor. The migrants should return home when they are no more employed.

On the flipside of the Korean authorities' control and planning are the Korean government's endeavors to protect the migrant workers' rights. The Korean government exerts no fewer efforts to support the migrant people. The most fundamental principle is non-discrimination. As states in 'Act on the Employment, etc. of Foreign Workers,' 'no employer shall unfairly give discriminatory treatment to a foreign worker on the ground that he/she is a foreign worker.' The migrant workers have equal access to the social security system with their Korean counterpart, so they should subscribe compulsory social insurances in Korea in the same manner with Koreans, such as the National Health Insurance and the Occupational Accident Compensation Insurance, in order to benefit from the social security net. All employers have to purchase insurance or trust in preparation for retirement payments which should be provided to the foreign workers when leaving Korea. By interlocking the severance pay and the foreign workers' departure, the Korean authorities do not only seek ways to guarantee the migrants' return home but also double safety devices to prevent the foreign workers to be undocumented, as illegal stay means increasing precariousness to the migrant people. The specificities of the Employment Permit System coexist in their dialectical relations. The labor migration scheme works as a portal of the Korean government's exclusive

management for the low-skilled foreign labor in the economy. Terms and conditions are written from Korea's perspective. The employment permissions are given to Korean businesses, and no initiatives are allowed to the foreign workers until they sign the contract. The migrants' sojourn and immigration status depend on their employment. Given the planning and control on the one hand, it is also important for the Korean authorities to effectively address the foreign workers' rights, as the Employment Permit System would be more sustainable when the concerning parties' concerns and interests are appropriately supported. The Korean government, therefore, makes the most of its labor migration scheme to support the workers' rights, while navigating the triangular relations between employment management, economic development, and immigration control.

3. Development Implications of Low-Skilled Labor Migration

An increasing number of people has been crossing borders to find jobs, and a majority of them are from developing countries and working in developed countries (DESA, 2009). The international community has recognized that 'labour migration can have many beneficial elements for those countries which send and receive migrant workers, as well as for the workers themselves (ILO, 2006:3).' The global phenomenon is also the case of the labor migration under the Employment Permit System. The labor migration scheme, therefore, can be approached as an engine of development for all parties engaged.

3.1. In Countries of Origin

A Major driving force of labor migration is people's pursuit of decent work (ILO, 2010). The migrants move to another place for better opportunities and conditions of work than those of their country. Among various motivations, the workers' decision is largely made from wage differences between at home and abroad which would be substantial enough to compensate opportunity costs for migration (Clark and Drinkwater, 2007; Grogger and Hanson, 2011). Since all labor sending countries under the Employment Permit System have lower average wages for low-skilled workers than Korea, the migrant workers would benefit from higher wages and better financial situation when working in Korea (Oh et al., 2012). At a country level, labor immigration relieves unemployment and underemployment issues but not necessarily affect Gross National Product in a negative way (Todaro, 1969).

As well recognized in the international community, remittances are among the powerful resources for home countries' development that can be expected from migrant labor. The money from overseas gives many developing countries the better access to the international capital resources on more favorable terms (Ratha, 2005). Remittances also work as stable source to increase inflows of foreign exchange and have more positive impacts on the economy than financial aid or direct investment, since it is not tied to particular projects nor to be returned (Buch and Kuckulenz, 2004). The migrants' sending money significantly supports many households by increasing savings and purchasing power which would directly boost the economy (Ratha, 2003). Consequently, increasing demands for basic needs stimulate retail sales and extend to job creation through a multiplier effect of remittances (Lowell and De La Garza, 2000). More than three quarters of global remittances worth \$613 billion flow into low and middle income countries, which are triple the size of official development assistance and a far larger amount than foreign direct investment in the recipient countries (Ratha et al., 2018). The situation is also found in the Employment Permit System's labor

sending countries, and remittances reach around ten percent or more of Gross Domestic Products in a number of countries, such as Vietnam, the Philippines, Mongolia and Timor Leste (WB, n.a.). In particular, Mongolia witnessed \$260 million of remittances to its economy in 2016, and almost forty percent of the amount was sent from its people working in Korea (WB, n.a.). The figures imply impacts of which the remittances from Korea have on development in the labor sending countries.

3.2. In Korea

Korea introduced the labor migration management scheme as a measure to relieve labor shortages. Along with transformation of the economic structure, the Korean economy witnessed unemployment and labor shortages at the same time. Although people's standards of living have improved due to economic growth, the occupational structure has not changed significantly which results in labor shortages in some businesses (Böhning, 1984). Koreans want to avoid so-called 3D occupations, referring dangerous, dirty and demanding, and businesses in the 3D sectors have no choice but to seek workers outside who are willing to be hired under the given terms and conditions. Employment of foreign labor is, therefore, crucial for some employers to remain in business. As of 2016, 92 percent of foreign workforces in Korea consist of low-skilled workers, and only 8 percent are professionals.

In addition to the alleviation of labor shortages, the influx of low-skilled foreign labor supports the destination economy by complementing the existing labor force. The complementary effect of the low-skilled foreign labor increases a demand for skilled labor, which mostly consists of Koreans, and results in job creation and wage rises for skilled workers, benefiting Korean job market (Kim, 2009). The introduction of the migrant workers has still positive impacts even considering a substitution effect. Since

the low-skilled foreign workers are employed in the sectors where few Korean workers want to work, most of the migrants are hardly in competition with Koreans. Also, the businesses which hire foreign labor pay in most cases marginal wages to their employees for survival in domestic and international markets, the foreign workforces have limited impacts on declining wages in Korea (Lee, 2011). Empirical studies show that introduction of low-skilled foreign workers in Korea's manufacture sector does not bear a meaningful correlation with decreasing wages of their Korean counterparts (Han and Choi, 2006), and that few examples support the concerns about whether the labor migration reduces job opportunities for domestic labor (Jean et al., 2007).

4. Reputations and Issues of the Employment Permit System

Considering its international reputation as an indicator, the Employment Permit System has as complex possible improvements as its specificities. The migrant labor scheme is exclusively driven by the government to avoid irregularities and corruption and to protect the foreign workers' rights. At the same time, the management has strictly regulated the labor migration to satisfy the triangular relations of employment management of foreign workforces with Korea's economic development and immigration control. The complexity came out with the United Nations Public Service Award on one end and denouncement from the international society on the other hand. The Employment Permit System was recognized as the Korean government's successful endeavors to achieve transparency in labor migration but also criticized as device for disposable labor (UN, 2011; AI, 2012). Supporting the foreign workers' rights is among the top priorities of the Korean government. However, the extent and manner to address the migrant labor rights are inevitably subject to Korea's economic development plan and immigration policy, as well underlined in the International Labour Organization's

Multilateral Framework on Labour Migration that “all states have the sovereign rights to develop their own policies to manage labour migration (ILO, 2006:2).”

Given the complexity, possible improvements of the Employment Permit System should be searched by focusing on the scheme’s sustainability. Sustainable management of the low-skilled labor is important in light of the situation that the Korean economy needs the foreign workforces and even more significant when considering the labor migration scheme’s positive development impacts on both ends of demand and supply. For an enduring labor migration scheme, the Korean government needs to exert more efforts to effectively address the concerning parties’ interests. The most immediate parties for the purpose of the enhancement should be the employers and the foreign workers. However, the sovereign rights of the Korean government affect scopes and manners of the possible improvements as the authorities should take inclusive approaches in the context of the triangular relations between employment management, economic development, and immigration control as the Korean government each of the policy areas in the relations.

The Employment Permit System has a number of mechanisms to protect by controlling the employers and the migrant workers which render some issues to be discussed. As employment contracts should be signed before application and issuance of visa, potential employers and the successful candidates can communicate with each other only on paper, which is for transparency but possibly hampering effective matching between the two sides. The employed low-skilled migrants in Korea are restricted their sojourn period up to four years and ten months in principle and their chances of changing workplaces no more than three times, which aims to prevent the migrants’ illegal stay, protecting them from precariousness, but limits the foreign workers’ rights. The migrant workers experience difficulties when trying to accompany their family as their immigration classification does not allow their family members to apply for

dependent visa, which serves immigration control but may deteriorate the migrants' livelihood. Capturing through the lens of the triangular relations between employment management, economic development, and immigration control, most of the issues are subject to the sovereign rights of a country to pursue its own plans in the policy sphere, such as economy and immigration.

5. A Possible Improvement of the Employment Permit System

The current matching mechanism for employment in the Employment Permit System is funneled through the triangular relations between employment management, economic development, and immigration control, emerging as an issue for a possible improvement. In the current system, matching is paper-based. The sending countries provide a list of successful candidates for job application in accordance with the job roster created by the Korean authorities. The potential employers in Korea select workers from the candidates on the list with little ground of understanding due to lack of chance to assess them properly. As all contracts should be signed prior to work visa application, the workers have few opportunities to meet with prospective colleagues and look around their future workplaces in Korea beforehand. The paper-based procedures possibly result in suboptimal placement. A field study shows that a majority of Korean businesses consider a worker's nationality as the most important criteria when hiring low-skilled foreign workers than any other factors, such as working experience, education, language proficiency, gender, age, and physical condition. (Lee, 2014). Surveys in the research reveal that the employers want to compose the workplaces as homogenous in terms of their employees' nationalities as possible, considering effective personnel management, nevertheless a worker's nationality hardly tells his or her competency. The employers

realize that they would better move on to the next stage from recruitment where they have little means to effectively sort out whom they are looking for.

The matching mechanism is an issue but possible to be improved without increasing the tensions of the triangular relations between employment management, economic development, and immigration control. Endeavors for the improvement do not necessarily require additional administrative or legal actions in case the Korean authorities should come up with budgets and legislation for the adjustments which means increasing burdens to the Korean government. However, the improvement is achievable by changing the existing practices. Departing from shuttling the list of successful candidates from the sending countries and the job roster from Korea, the Korean government in collaboration with the sending countries should diversify channels more than one of paper-based in the process of recruitment and placement, thus both sides of employment effectively learn and understand each other before signing the employment contract. In addition to the document-based assessment, an online interview can be applied to those candidates who passed the application phase.

Prospective advantages from improving the matching mechanism can be captured from various aspects. The first is about employment stability from which both the employers and the employees benefit. A recent statistical research on the Employment Permit System suggests that mismatching is among determinants of the migrant workers' dissatisfactions at work and increases the workers' intentions to leave their workplaces (Chin et al., 2016). The weak sense of belonging at work makes the foreign employees to consider turnover in pursuit of changing their job. In case of turnover, the businesses which already suffered labor shortages before hiring the foreign labor have to once again face labor insufficiency. When deciding to leave their job, the migrant workers have to bear a period of time of insecurity and uncertainty until finding a new job and possibly suffer more than their Korean counterpart since they should find new employers among

those with a permit to hire foreign labor. As stated in ‘Act on the Employment, etc. of Foreign Workers,’ the migrant workers are supported by the unemployment benefits in the same manner with the way Koreans are protected. However, lingering in between jobs only jeopardizes the foreign workers’ immigration status as the workers should return home when exhausting two months of a grace period for job seeking.

Enhancements in the matching system can complement institutional limitations of the Employment Permit System. In the current system, the migrant workers are allowed to change their workplaces no more than three times during their sojourn. The employees need a consent from their current employers when leaving their job. If a migrant worker violates any of the rules, negative consequences are inflicted on not only him or her but also prospective workers in his or her country as well. Each year, the Korean authorities evaluate each sending country’s rate of undocumented workers in Korea and reflect the results in the allocation of quotas of the sending countries for the following year (MOEL, 2017). From the sending countries’ perspective, the more illegal migrants mean the fewer workers admitted. If the workers and the employers could find the right ones of each other in the first place, the constraints on changing the workplaces can be approached as less restrictive in practice. The right matching also serves long-term and stable labor relations as the Employment Permit System allows the low-skilled migrants to stay and work in Korea up to nine years and eight months if they are recognized as committed workers by their employers (HRDS, n.a.b).

Last but not least, the matching mechanism should be strengthened when considering the migrant workers’ ways of living in Korea as one of the relevant issues for the sustainable Employment Permit System. The foreign employees are considerably influenced by the matching mechanism regarding where to work as well as where to live which largely determines the workers’ social relations and experience in Korea. A field study on spatial distribution of the migrant workers in Korea’s manufacture

industry suggests that the location of the factories dictates distribution of the migrant workers (Lee, 2016). The manufacturing companies are clustered in the outskirts of the metropolitan areas. The workers dwell close to their factories because their employers provide accommodations in the approximate area for the management purpose, and the migrants also prefer living in the supported residences due to financial reasons. Therefore a majority of the foreign workers experience their work and life within the neighboring areas of the industrial districts. As the workplaces are decided by the matching system, the enhancements in the matching system are all the more important with respect to the social impacts on the migrant workers in addition to the above captured economic and institutional benefits.

6. Conclusion

The Korean government has managed low-skilled migrant labor through the current Employment Permit System for over a decade. The government-led scheme aims to relieve labor shortages in a number of labor-intensive industries and to protect the low-skilled migrants in Korea by legally recognizing them as equal workers with Koreans. Given the various positive development impacts of the labor scheme on all the concerning parties of both sides of sending and receiving labor, the Korean government can take a step toward increasing sustainability of the Employment Permit System by searching for possible improvements. As conflicting reputations in the international society imply, the labor migration scheme has assets and issues at the same time. The system is designed to be driven by the Korean authorities in collaboration with the sending countries, securing transparency and protecting the workers' rights in the entire process of foreign labor employment. On the other hand, the labor management scheme imposes various restrictions to the migrant workers in relation to the triangular relations

between employment management, economic development, immigration control which all within the policy sphere of the Korean government. Among others, the current employment matching mechanism is the area where enhancements can be achieved, benefitting all the concerning parties but possibly avoiding additional burdens to the existing Employment Permit System. The enhanced matching mechanism can serve stable labor relations, complement the institutional limitations of the labor migration scheme, and consequently affect the migrant workers' living in Korea as a whole.

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